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SENATE BILL DRS45170-MRp-13B

Short Title: LEO Special Separation Allowance Options. (Public)

Sponsors: Senators Berger, Sawyer, and Ford (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING AN ADDITIONAL SPECIAL SEPARATION ALLOWANCE OPTION
3 FOR STATE AND LOCAL LAW ENFORCEMENT OFFICERS WITH AT LEAST
4 THIRTY YEARS OF CREDITABLE SERVICE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 143-166.41 reads as rewritten:

7 "**§ 143-166.41. Special separation allowance-allowance options for State law enforcement**
8 **officers.**

9 (a) Annual Special Separation Allowance. – Notwithstanding any other provision of law,
10 every sworn law-enforcement officer ~~as defined by G.S. 135-1(11e) or G.S. 143-166.30(a)(4)~~
11 employed by a State department, agency, or institution who qualifies under this section shall
12 ~~receive, receive an annual special separation allowance~~ beginning in the month in which ~~he the~~
13 ~~officer~~ retires on a basic service retirement under the provisions of ~~G.S. 135-5(a), an annual~~
14 ~~separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent~~
15 ~~of the base rate of compensation most recently applicable to him for each year of creditable~~
16 ~~service. G.S. 135-5(a).~~ The allowance shall be paid in equal installments on the payroll frequency
17 used by the employer. ~~To qualify for the allowance the officer shall:~~

18 (1) ~~Have (i) completed 30 or more years of creditable service or, (ii) have attained~~
19 ~~55 years of age and completed five or more years of creditable service; and~~
20 (2) ~~Not have attained 62 years of age; and~~
21 (3) ~~Have completed at least five years of continuous service as a law enforcement~~
22 ~~officer as herein defined immediately preceding a service retirement. Any~~
23 ~~break in the continuous service required by this subsection because of~~
24 ~~disability retirement or disability salary continuation benefits shall not~~
25 ~~adversely affect an officer's qualification to receive the allowance, provided~~
26 ~~the officer returns to service within 45 days after the disability benefits cease~~
27 ~~and is otherwise qualified to receive the allowance.~~ employer from which the
28 officer retired.

29 (a1) Repealed by Session Laws 2014-88, s. 3(j), effective July 30, 2014.

30 (b) ~~As used in this section, "creditable service" means the~~ Definitions. – The following
31 definitions apply in this section:

32 (1) Allowance. – The annual special separation allowance for State law
33 enforcement officers provided for under this section.

34 (2) Creditable service. – The service for which credit is allowed under the
35 retirement system of which the officer is a member, provided that at least fifty



- percent (50%) of the service is as a law enforcement officer ~~as herein defined~~
or as a probation/parole officer ~~as defined in G.S. 135-1(17a)~~ officer.
- (3) Law enforcement officer. – As defined in either G.S. 135-1 or G.S. 143-166.30(a).
- (4) Officer. – A law enforcement officer.
- (5) Probation/parole officer. – As defined in G.S. 135-1.
- (b1) Eligibility for Allowance and Calculation of Allowance Amount. – To be eligible for an allowance under this section, an officer is required to meet one of the following sets of criteria that shall also determine the allowance amount:
- (1) For officers meeting all of the following criteria, the annual special separation allowance to be paid is equal to eighty-five hundredths percent (0.85%) of the annual base rate of compensation most recently applicable to the officer for each year of that officer's creditable service:
- a. The officer (i) has completed 30 or more years of creditable service or (ii) is 55 years of age or older and completed five or more years of creditable service.
- b. The officer is less than 62 years of age.
- c. The officer has completed at least five years of continuous service as a law enforcement officer immediately preceding the officer's service retirement. Any break in this required continuous service that is a result of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive an allowance under this subdivision so long as the officer returned to service within 45 days after the disability benefits had ceased and is otherwise qualified to receive the allowance.
- (2) For officers meeting all of the following criteria, the annual special separation allowance to be paid is equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation at the time the officer attained 30 years of service multiplied by 30:
- a. The officer has completed 30 or more years of creditable service prior to attaining 62 years of age.
- b. The officer has completed at least five years of continuous service as a law enforcement officer immediately preceding the officer's service retirement. Any break in this required continuous service that is a result of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive an allowance under this subdivision so long as the officer returned to service within 45 days after the disability benefits had ceased and is otherwise qualified to receive the allowance.
- If an officer meets all of the criteria under each subdivision of this subsection, then the employer making the allowance payments shall allow the officer to choose which of the two calculation formulas to use for that officer's allowance. This election by the officer is a one-time, irrevocable election and shall be made prior to the first allowance payment. If no election is made by the officer, then the calculation amount under subdivision (2) of this subsection shall be used.
- (c) Cessation of Payment. – Payment of the allowance to a retired officer under the provisions of this section shall cease at the first ~~of~~ occurrence of one of the following:
- (1) The death of the ~~officer~~ officer.
- (2) The last day of the month in which either of the following applies:
- a. If the officer is receiving an allowance in an amount determined under subdivision (b1)(1) of this section, the officer attains 62 years of age; ~~or age.~~

b. If the officer is receiving an allowance in an amount determined under subdivision (b1)(2) of this section, there has been a period of receiving the allowance that is equivalent to the total of 62 years minus the age at which the officer first completed 30 years of creditable service.

(3) The first day of reemployment by any State department, agency, or institution, except that this subdivision does not apply to an officer returning to State employment in a position exempt from the North Carolina Human Resources Act in an agency other than the agency from which that officer retired.

(d) Impact of Other Benefits or Actions. – This section does not affect the benefits to which an individual may be entitled from State, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by the General Assembly for employees of the State or retired employees of the State.

(e) Eligibility Determinations. – The head of each State department, agency, or institution shall determine the eligibility of employees for the benefits provided ~~herein~~ under this section.

(f) Transfer of Funds. – The Director of the Budget may authorize from time to time the transfer of funds within the budgets of each State department, agency, or institution necessary to carry out the purposes of this ~~Article~~ section. These funds shall be taken from ~~those funds~~ appropriated to the department, agency, or institution for salaries and related fringe benefits.

(g) Responsibility for Payment. – The head of each State department, agency, or institution shall make the payments set forth in ~~subsection (a)~~ this section to those persons certified under subsection (e) of this section from funds available under subsection ~~(f)~~ (f) of this section."

SECTION 2. G.S. 143-166.42 reads as rewritten:

"§ 143-166.42. **Special separation allowances** allowance options for local law enforcement officers.

(a) Annual Special Separation Allowance. – On and after January 1, 1987, every sworn law enforcement officer ~~as defined by G.S. 128-21(11d) or G.S. 143-166.50(a)(3)~~ employed by a local government employer who qualifies under this section shall ~~receive~~ receive an annual special separation allowance beginning in the month in which the officer retires on a basic service retirement under the provisions of ~~G.S. 128-27(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service. G.S. 128-27(a).~~ The allowance shall be paid in equal installments on the payroll frequency used by the employer. ~~To qualify for the allowance, the officer shall:~~

(1) ~~Have (i) completed 30 or more years of creditable service or (ii) have attained 55 years of age and completed five or more years of creditable service; and~~

(2) ~~Not have attained 62 years of age; and~~

(3) ~~Have completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.~~ employer from which the officer retired.

(b) ~~As used in this section, "creditable service" means the service~~ Definitions. – The following definitions apply in this section:

(1) Allowance. – The annual special separation allowance for local law enforcement officers provided for under this section.

(2) Creditable service. – The service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein defined officer.

(3) Law enforcement officer. – As defined in G.S. 128-21 or G.S. 143-166.50(a).

(4) Officer. – Law enforcement officer.

(b1) Qualification for Allowance and Calculation of Allowance. – To be eligible for an allowance under this section, an officer is required to meet one of the following sets of criteria, which shall also determine the allowance amount:

(1) For officers meeting all of the following criteria, the annual special separation allowance to be paid is equal to eighty-five hundredths percent (0.85%) of the annual base rate of compensation most recently applicable to the officer for each year of that officer's creditable service:

a. The officer (i) has completed 30 or more years of creditable service or (ii) is 55 years of age or older and completed five or more years of creditable service.

b. The officer is less than 62 years of age.

c. The officer has completed at least five years of continuous service as a law enforcement officer immediately preceding the officer's service retirement. Any break in this required continuous service that is a result of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive an allowance under this subdivision so long as the officer returned to service within 45 days after the disability benefits had ceased and is otherwise qualified to receive the allowance.

(2) For officers meeting all of the following criteria, the annual special separation allowance to be paid is equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation at the time the officer attained 30 years of service multiplied by 30:

a. The officer has completed 30 or more years of creditable service prior to attaining 62 years of age.

b. The officer has completed at least five years of continuous service as a law enforcement officer immediately preceding the officer's service retirement. Any break in this required continuous service that is a result of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive an allowance under this subdivision so long as the officer returned to service within 45 days after the disability benefits had ceased and is otherwise qualified to receive the allowance.

If an officer meets all of the criteria under each subdivision of this subsection, then the employer making the allowance payments shall allow the officer to choose which of the two calculation formulas to use for that officer's allowance. This election by the officer is a one-time, irrevocable election and shall be made prior to the first allowance payment. If no election is made by the officer, then the calculation amount under subdivision (2) of this subsection shall be used.

(c) Cessation of Payment. – Payment of the allowance to a retired officer under the provisions of this section shall cease at the first occurrence of one of the following:

(1) The death of the officer; officer.

(2) The last day of the month in which either of the following applies:

a. If the officer is receiving an allowance in an amount determined under subdivision (b1)(1) of this section, the officer attains 62 years of age; or age.

b. If the officer is receiving an allowance in an amount determined under subdivision (b1)(2) of this section, there has been a period of receiving the allowance that is equivalent to the total of 62 years minus the age at which the officer first completed 30 years of creditable service.

(3) The first day of reemployment by a local government employer in any capacity.

(c1) Exceptions to the Cessation of Payments. – Notwithstanding the provisions of subdivision (3) of subsection (c) of this section, payments to a retired officer shall not cease when a local government employer employs a retired officer ~~for any of the following:~~ in any of the following manners:

(1) In a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System.

(2) In service to a county board of elections on an election day or during the hours for early voting under Part 5 of Article 14A of Chapter 163 of the General Statutes in a capacity that complies with G.S. 128-21(19) and does not result in cessation or suspension of the retiree's benefit from the Local Government Employees' Retirement System.

(d) Impact of Other Benefits or Actions. – This section does not affect the benefits to which an individual may be entitled from State, local, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by local government employers or for retired employees of local governments.

(e) Eligibility Determinations. – The governing body of each local employer shall determine the eligibility of employees for the benefits provided ~~herein~~ under this section.

(f) Responsibility for Payment. – The governing body of each local employer shall make the payments set forth in ~~subsection (a) of~~ this section to those persons certified under subsection (e) of this section from funds available."

SECTION 3. This act becomes effective July 1, 2025, and applies to law enforcement officers retiring on or after that date.